

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

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Illinois Commerce Commission	:	
On Its Own Motion	:	
	:	Docket No. 07-0483
Development of net metering	:	
standards required by P.A. 95-0420	:	

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**BRIEF ON EXCEPTIONS OF THE STAFF  
OF THE ILLINOIS COMMERCE COMMISSION**

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The Staff of the Illinois Commerce Commission ("the Staff"), by and through its counsel, and pursuant to Section 200.830 of the Commission's Rules of Practice (83 Ill. Adm. Code 200.830), respectfully submits its Brief on Exceptions in the above-captioned matter.

Staff commends the Administrative Law Judge ("ALJ") for the thorough, cogently-reasoned analysis contained in the Proposed Order ("PO"). The Proposed Order also provides an accurate and detailed summary of the positions of the parties and reaches conclusions with respect to all issues that are consistent with applicable requirements under the Illinois Public Utilities Act. Staff has no exceptions *per se* but does offer the ALJ an alternative to its conclusion on Section 465(i) (PO (j)), clearing "dead" applications, while still retaining the conclusion the ALJ reached in the Proposed Order. Staff also has some ministerial suggestions regarding what appear to be a few inadvertent typographical errors.

**Staff Limited Exception 1 -- Section 465.40(i) Clearing "Dead" Applications**

Staff does not object to the ALJ's conclusion that she reached with respect to Section 465.40(i), clearing "dead" applications. The PO adopted language proposed by

both the Environmental Law and Policy Center (“ELPC”) and MidAmerican Energy Company. Staff also does not object to the language proposed by both of these parties. However, because the parties were essentially addressing similar issues but coming from different directions, fusing the two recommendations together can be an awkward task. Staff suggests that if the new language is added to Section 465.40, it be streamlined and made somewhat more readable without fundamentally changing the intention of the Section. Staff’s only purpose with this suggestion is to make the Section more readable.

Subsection 465.40(h) currently states that a customer would retain its authorization to net meter subject to the two limitations that appear in two later subsections of Section 465.40. Staff suggests bringing these two limitations together in two new subsections (h)(1) and (h2).

The first limitation, as added by the PO, is Section 465.40(l). An authorized customer must apply for interconnection within 30 business days after receiving authorization to net meter. This is moved to new subsection (h)(1). Staff also suggests adding a statement to this new subsection clarifying that a customer that does not fulfill this requirement would lose its net metering authorization. The second limitation, current Section 465.40(j), applies to electricity providers that establish enrollment limits. This Section is rewritten in new subsection 465.40(h)(2).<sup>1</sup> Staff’s recommended subsection incorporates the existing framework and ELPC’s suggestion that all

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<sup>1</sup> Subsection 465.40(j) is deleted.

deadlines “toll” while the electric utility reviews a customer’s interconnection application.<sup>2</sup>

Subsection (h)(2) lists each of the steps that may occur following the customer’s interconnection application. The first possibility is that the utility may cancel the customer’s net metering authorization if the customer does not sign the interconnection agreement within 12 months. Next, assuming the customer does sign the agreement within the required 12 months, the utility must allow the customer six months to commence operation (making a total of 18 months after the utility presented the interconnection agreement to the customer). Finally, a customer may purchase an additional six months if it has not commenced operation within 18 months.

Staff notes that there is a slight difference between the recommended process and the process described in the PO that occurs immediately after the customer receives notification from the utility that its net metering application has been approved. In the PO, a customer is permitted 12 months after receiving net metering authorization to execute an interconnection agreement, but the deadline tolls or is suspended while the electricity utility review the customer’s interconnection application. Thus, up to 30 business days of the 12 months would consist of the time during which the customer is preparing its interconnection application. Staff suggests that it would be simpler to start the 12 month clock when the utility provides the interconnection agreement to the customer. This may result in a slightly longer process.

Staff also recommends that the term “electricity provider,” in subsection (h)(1) be changed to “electricity utility,” as a customer applies for interconnection through the

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<sup>2</sup> Staff suggests that if the ALJ does not accept Staff’s recommendations, the word “toll” should be replaced by a term such as “suspended” that might be more familiar to customers.

electric utility. Staff also suggests adding the phrase “under applicable Commission rules” for consistency with subsection (h)(2).

Staff also notes that Sections 465.40(i) and (j) are identical in the PO. The error is due to Staff inadvertently duplicating Section 465.40(i) instead of adding new Section 465.(j) when Staff incorporated Commonwealth Edison’s recommendations that were made in its Initial Comments to add two new subsections (see Sections 465.40 (j) and (k), Corrected Attachment A, Commonwealth Edison’s Initial Comments). The two subsections are included Section 465.40 at the end of the Section.

Staff’s recommended changes to Section 465.40 are shown below with new language underlined and deletions struck through.

#### **Section 465.40      Net Metering Application and Enrollment Procedures**

- a) Each electricity provider shall establish an application form and procedures to enable eligible customers to participate in the net metering program offered by the electricity provider.
- b) An electricity provider may establish an enrollment cap of 1% of the peak demand supplied by the electricity provider in the previous calendar year in accordance with Section 16-107.5 (j). Nothing in this Rule alters the authority of electricity providers to offer net metering beyond these limitations if they so choose. Applicable electric utilities (e.g., the Ameren Companies, Commonwealth Edison Company, and MidAmerican Energy Company) must limit the number of eligible customers with generators that have a nameplate rating of 40 kilowatts and below to 200 new billing accounts for the period from April 1, 2008 through March 31, 2009.
- c) Electricity Providers shall establish an open enrollment period to receive net metering applications beginning April 1, 2008 and running through May 1, 2008. If the electricity provider receives applications in excess of any applicable limits provided for in subsection (b), the electricity provider shall determine enrollment priority by lottery. Applications will not be accepted prior to the start of the open enrollment period. This subsection does not prohibit the electricity provider from providing an initial preference in this

regard to customers that are already participating in net billing or other programs similar to net metering that are offered by the electricity provider.

- d) After the end of the open enrollment period, or after any applicable limits provided for in subsection (b) have been met, whichever comes first, net metering enrollment priority shall be established on a first-come, first-serve basis, according to the electricity provider's date stamp indicating receipt of a completed net metering application. Applicants that applied during the open enrollment period that did not establish enrollment priority during the open enrollment period shall have their enrollment priority established in accordance with this subsection (d) based on the date stamp of the application submitted during the open enrollment period.
- e) Each completed application for net metering service shall be in writing and include:
  - 1. The customer's name, contact information and corresponding service address where the proposed net metering generation facility or facilities are located,
  - 2. The name plate capacity rating of the proposed net metering generation facility or facilities, and
  - 3. Sufficient information to permit the electricity provider to determine whether the facility or facilities qualify as eligible renewable electrical generating facility or facilities.
- f) The electricity provider shall make application forms available to prospective net metering customers. The electricity provider shall provide applicants with a single point mailing address for all net metering applications, to which a completed application must be sent. The electricity provider shall date stamp each completed application upon receipt and completeness determination. Upon receipt of an applicants completed and executed application, the electricity provider shall within 10 business days notify the applicant as to whether it is authorized to participate in the electricity provider's net metering program. An electricity provider shall not unreasonably deny a prospective customer's application.
- g) If the electricity provider has denied an application due to the cap provided for in subsection (b), the electricity provider shall provide the customer an opportunity to be put on a waiting list. If space becomes available under the cap, due to either attrition among enrolled customers or an increase in the electricity provider's peak demand, wait-listed customers shall be processed before new applications.

- h) Any authorization to net meter shall remain effective for as long as the customer remains eligible for net metering and continues taking generation service from the electricity provider, subject to the limitations in subsections (h)(1) and (h)(2)(ii).

(1) A customer authorized to net meter under subsection (f) shall submit an executed application for interconnection under applicable Commission rules to the ~~electricity provider~~ electric utility within 30 business days of the date of the notification from the electricity provider pursuant to subsection (f). An electricity provider may cancel the authorization that it granted to a customer to net meter if the customer has not submitted an executed application for interconnection by the required date.

(2) The following provisions apply to any electricity provider that establishes enrollment limits, as provided for in subsection (b):

- (i) The electricity provider may cancel a customer's authorization to net meter if the customer has not executed an interconnection agreement under applicable Commission rules with the customer's electric utility within 12 months after receiving the interconnection agreement from the electric utility.
- (ii) The electricity provider must automatically extend the authorization to net meter by an additional six months for an eligible customer that has executed an interconnection agreement within 12 months after receiving the interconnection agreement from the utility but whose eligible renewable electrical generating facility has not commenced operation and passed any applicable witness test.
- (iii) A customer seeking to extend the authorization to net meter for an additional six months must pay a deposit of \$25 for each kilowatt of the nameplate rating of the customer's eligible renewable electrical generating facility, which shall be refunded only if the facility commences operation and passes any applicable witness test. A customer may only receive a single six month extension.

- i) With respect to any customer that has been authorized for net metering offered by an electricity provider that is not the electric utility providing delivery service to the customer, the electricity provider must notify the electric utility of the customer's status as a net metering customer.

- j) With respect to any customer that has had its authorization for net metering canceled by an electricity provider that is not the electric utility providing delivery service to the customer, the electricity provider must notify the electric utility of the customer's status as a net metering customer

### **Staff Ministerial Suggestions**

On page 2 of the PO, the last sentence of the last paragraph in the introductory section currently reads: “The substantive changes recommended by the parties are set for the below.” Staff believes it was intended to read: “The substantive changes recommended by the parties are set forth the-below.”

In the discussion of Section 465.50(a), in the first partial paragraph on page 5, in a citation to the Net Metering Act, the “.5” appears to have been inadvertently omitted from a citation. It currently reads: “In support, it cites 220 ILCS 5/16-107(e) and 16-107.5(f)(1).” Staff believes it was intended to read: “In support, it cites 220 ILCS 5/16-107.5(e) and 16-107.5(f)(1).”

Finally the section addressing Section 465.50(b)(2)(i), currently has the following heading and first paragraph:

#### **Section 465.50(b)(1)(i) Billing for Non-Residential Customers with Generators Over 40 kW that Take Service Under Time of Use Rates**

MidAmerican proposes to add language to Section 465.50(b)(2)(i) stating that compensation due to time-of-use customers who are net sellers is at “avoided cost.” (MidAmerican Comments at 4).

Staff believes the citation to the subsections was slightly off and should be Section 465.50(b)(2)(i) as noted in the first sentence below the heading. Also, it appears that the word “rate” was inadvertently omitted from the first paragraph.

#### **Section 465.50(b)(~~12~~)(i) Billing for Non-Residential Customers with Generators Over 40 kW that Take Service Under Time of Use Rates**

MidAmerican proposes to add language to Section 465.50(b)(2)(i) stating that compensation due to time-of-use customers who are net sellers is at “avoided cost rate.” (MidAmerican Comments at 4).

## **Conclusion**

WHEREFORE, the Staff of the Illinois Commerce Commission respectfully request that its recommendations be adopted in their entirety consistent with the positions articulated above.

/s/

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